



Dkt. #683

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3671

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Herbert Howell Waddell
U.S. Serial No.: 09/693,239 Examiner: Nathan S. Mammen
Filed : October 20, 2000 Art Unit: 3671
For : APPARATUS FOR GATHERING, PICKING UP AND
CARRYING LOOSE MATERIALS

Law Offices of Albert Wai-Kit Chan, LLC
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August 11, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

**COMMUNICATION IN RESPONSE TO JULY 11, 2005 NOTIFICATION OF
NON-COMPLIANT APPEAL BRIEF, COMMUNICATION TO CORRECT ATTORNEY
DOCKET NUMBER, AND COMMUNICATION TO ASSOCIATE APPLICATION WITH
CUSTOMER NUMBER**

This Communication is being submitted in response to the July 11, 2005 Notification of Non-Compliant Appeal Brief (Notification) which was issued by the United States Patent and Trademark Office (USPTO) in connection with the above-identified application. The Notification is attached hereto as **Exhibit 1**. The Notification provides that Applicant must file a complete new brief in compliance with 37 CFR 41.37 within one month or thirty days from the Notification mailing date, whichever is longer, i.e., August 11, 2005. The new brief in compliance with 37 CFR 41.37 is attached hereto as **Exhibit 2**. Accordingly, this Communication is being timely filed.

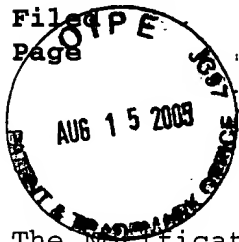
Additionally, the Notification shows the Attorney Docket No. for the above-identified application as "IP-902," which is

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incorrect. Please amend the record so that all future USPTO communications will reflect the correct Attorney Docket No. of "683." There is no deadline for making this correction. Accordingly, this Communication is being timely filed.

Additionally, please associate the above-identified application with Customer Number "33729." There is no deadline for requesting this association. Accordingly, this Communication is being timely filed.

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REMARKS

The Notification states that "[t]he brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order."

The Notification also states that "(a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v))."

The Notification additionally states that "[t]he brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))."

The Notification further states that "[t]he brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii))."

In explanation of the above, Examiner explicitly notes that:

The brief fails to comply with 37 CFR 41.37(c). The

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brief does not include Appendices IX (Evidence Appendix) or X (Related Proceedings Appendix). The brief includes a "summary of the invention" instead of the now-required "summary of claimed subject matter." In the summary of the invention (assuming this would be the summary of claimed subject matter), the brief fails to identify each means plus function limitation. The summary of the invention also fails to refer to the specification by page and line number, or the drawings by reference character, for each claimed function and structure. The brief includes two old headings, "Issues presented for review" and "grouping of claims," instead of the new required heading of "grounds of rejection to be reviewed on appeal." The argument section fails to include a separate heading for each ground of rejection.

In response, Applicant has amended the Appeal Brief so as to render it in compliance with 37 CFR 41.37. As noted supra, the amended Appeal Brief is attached hereto.

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If a telephone interview would be of assistance in advancing the prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 50-1891.

Respectfully submitted,

Albert Wai-Kit Chan

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I hereby certify that this paper is being deposited this date with the U.S. Postal Service with sufficient postage for first class mail in an envelope addressed to:

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Alexandria, VA 22313-1450

Albert Wai-Kit Chan 8/11/05
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AUG 15 2005

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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,239	10/20/2000	Herbert Howell Waddell	IP-902	8560

7590 07/11/2005

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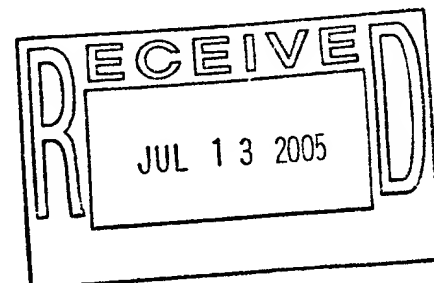
EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 07/11/2005

8/11/05
1/11/06
Paper AK
Elac AK

Please find below and/or attached an Office communication concerning this application or proceeding.



Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)

AUG 15 2005

Application No.

09/693,239

Applicant(s)

WADDELL, HERBERT HOWELL

Examiner

Nathan S Mammen

Art Unit

3671

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 02 May 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The brief fails to comply with 37 CFR 41.37(c). The brief does not include Appendices IX (Evidence Appendix) or X (Related Proceedings Appendix). The brief includes a "summary of the invention" instead of the now-required "summary of claimed subject matter." In the summary of the invention (assuming this would be the summary of claimed subject matter), the brief fails to identify each means plus function limitation. The summary of the invention also fails to refer to the specification by page and line number, or the drawings by reference character, for each claimed function and structure. The brief includes two old headings, "Issues presented for review" and "grouping of claims," instead of the new required heading of "grounds of rejection to be reviewed on appeal." The argument section fails to include a separate heading for each ground of rejection.

Theresa S. Hall
Supervisor, Patent Examiner
Group 3600